

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DANIEL EICHELBERGER	CIVIL ACTION
v.	NO. 17-5795
CITY OF PHILADELPHIA, CURRAN- FROMHOLD CORRECTIONAL FACILITY, and CORRECTIONS OFFICER S. WILSON	

MEMORANDUM ORDER RE: MOTIONS FOR RECONSIDERATION

Baylson, J.

August 3, 2018

I. Introduction

Following this Court’s Memorandum and Order (ECF 21, 22) granting in part and denying in part Defendant City of Philadelphia’s Motion to Dismiss (ECF 11) Plaintiff Daniel Eichelberger’s Amended Complaint (ECF 9), the City and Plaintiff both filed Motions for Reconsideration (ECF 23, 24), as permitted under Local Rule 7.1(g). Neither party responded to the other’s motion.

For purposes of the present motions, familiarity with the facts is assumed.

II. Legal Standard

“The purpose of a motion for reconsideration is to correct manifest errors of law or fact or to present newly discovered evidence.” Burger King Corp. v. New England Hood & Duct Cleaning Co., No. 98–cv–3610, 2000 WL 133756, at *2 (E.D. Pa. Feb.4, 2000) (internal quotation marks omitted). “Because federal courts have a strong interest in finality of judgments, motions for reconsideration should be granted sparingly.” Douris v. Schweiker, 229 F.Supp.2d 391, 408 (E.D. Pa. 2002) (internal quotation marks omitted). “Courts will consider an issue only ‘when there has been an intervening change in the controlling law, when new evidence has

become available, or when there is a need to correct a clear error or prevent manifest injustice.”
Lei Ke v. Drexel Univ., No. 11-cv-6708, 2013 WL 5508672, at *3 (E.D. Pa. Oct.4, 2013)
(quoting NL Industries, Inc. v. Commercial Union Ins. Co., 65 F.3d 314, 324 n. 8 (3d Cir.1995)).
“Mere dissatisfaction with the Court's ruling is not a proper basis for reconsideration.” Id.
(quoting Glendon Energy Co. v. Borough of Glendon, 836 F.Supp. 1109, 1122 (E.D. Pa. 1993)).

III. The City’s Motion

The City asserts that Plaintiff has alleged no facts regarding deficiencies in the actual training that Stefan Wilson received prior to this incident and has failed to allege the necessary facts to support a claim that the training was the moving force behind his injury.

With respect to the City’s arguments, Plaintiff clearly alleged, among other things, that Stefan Wilson’s training and disciplinary history is known only to Defendants. Coupled with Plaintiff’s other allegations, which the Court assumes are true for purposes of a Rule 12(b)(6) motion, Plaintiff’s Amended Complaint partially overcomes the City’s Motion to Dismiss, as detailed in the Court’s prior Order and Memorandum (ECF 21, 22).

IV. Plaintiff’s Motion

Plaintiff asserts that due to a “clerical error” an exhibit was not attached to his Response in Opposition to the City’s Motion to Dismiss (ECF 16) and therefore the Court should reconsider its ruling in light of the exhibit, which Plaintiff attaches as Exhibit B to his Motion for Reconsideration.

With respect to Plaintiff’s arguments, had the Court considered the “Summary Report Regarding the Use of Force,” it would not have affected the Court’s ruling. A simple statement that “Wilson was acting in accordance with Defendants’ policy when he repeatedly punched

Plaintiff,” (see ECF 23, Ex. B) does not support Plaintiff’s allegations of municipal liability premised on policy or custom because, among other reasons, Plaintiff does not identify in his Amended Complaint any officially adopted policy or informal custom.

V. Conclusion and Order

AND NOW, this 3rd day of August, 2018, upon careful consideration of all submissions, and for the reasons stated above, it is hereby **ORDERED** that Defendant City of Philadelphia’s Motion for Reconsideration (ECF 24) is **DENIED**, and Plaintiff Daniel Eichelberger’s Motion for Reconsideration (ECF 23) is **DENIED**.

BY THE COURT:

/s/ Michael M. Baylson
MICHAEL M. BAYLSON, U.S.D.J.